

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

PAUL E. LUBIENECKI,

Defendant.

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**NOTICE OF MOTION**

Cri. No. 20-cr-77A

PLEASE TAKE NOTICE:

MOTION MADE BY:

Rodney O. Personius, Esq.  
PERSONIUS MELBER LLP  
Attorneys for Defendant  
PAUL E. LUBIENECKI

DATE, TIME & PLACE:

Oral argument is not requested.

RELIEF SOUGHT:

A 30-day extension of the deadline for filing objections, if any, to the Report Recommendation and Order [Doc. No. 20] and Decision and Order [Doc. No. 21] of Magistrate Judge H. Kenneth Schroeder, Jr.

GROUND FOR RELIEF SOUGHT:

WDNY Local Rule of Criminal Procedure 59(c)(2).

SUPPORTING PAPERS:

Annexed Declaration of Counsel.

Dated: Buffalo, New York  
November 2, 2020.

**/s/ Rodney O. Personius**  
Rodney O. Personius, Esq.  
PERSONIUS MELBER LLP  
*Attorneys for Defendant*  
PAUL E. LUBIENECKI

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Buffalo, NY 14202  
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TO: AUSA Aaron J. Mango  
U.S. Attorney's Office  
138 Delaware Avenue  
Buffalo, NY 14202

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

**DECLARATION OF COUNSEL**

v.

Cri. No. 20-CR-77A

PAUL E. LUBIENECKI,

Defendant.

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RODNEY O. PERSONIUS, ESQ. declares the truth of the following under the penalty of perjury:

1. I am a member of Personius Melber LLP, retained attorneys for defendant Paul E. Lubieniecki.

2. This Declaration is submitted in support of an application to extend the deadline for filing objections, if any, to the Report, Recommendation and Order [Doc. No. 20] and Decision and Order [Doc. No. 21] of Magistrate H. Kenneth Schroeder, Jr., which were each filed on October 20, 2020.

3. The reason for the requested extension is to provide time for counsel to consult with the defendant regarding the advisability of filing objections to one or both of these determinations.

4. This additional time is necessary as counsel is now involved in a stand-by capacity in a trial before District Judge John L. Sinatra, which is scheduled to commence with jury selection on November 4, 2020.

5. The name of the case is *United States of America v. Nathaniel Gates, Jr.*, 17-cr-92 JLS.

6. I learned of this assignment last Wednesday, October 28, 2020.

7. Since that time, it has been necessary to devote virtually all of my working hours to assisting the defendant in preparing for trial, and in becoming familiar with the facts of the case.

8. It is estimated that the trial will last between 3 and 4 weeks.

9. Accordingly, I will not be in a position to give full and fair consideration to the *Lubieniecki* matter until after this trial is concluded.

10. Assistant United States Attorney Aaron Mango has been consulted, and has consented to this adjournment request.

**WHEREFORE**, application is hereby made pursuant to Local Rule of Criminal Procedure 59(c)(2) for a 30-day extension of the time for filing objections to the Report, Recommendation and Order [Doc. No. 20] and Decision and Order [Doc. No. 21] of Magistrate Judge Schroeder.

Dated: Buffalo, New York  
November 2, 2020.

/s/ Rodney O. Personius  
Rodney O. Personius, Esq.  
PERSONIUS MELBER LLP  
*Attorneys for Defendant*  
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